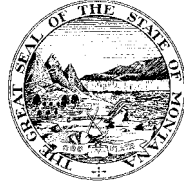


# LEGISLATIVE AUDIT DIVISION

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**TO:** Legislative Audit Committee Members  
**FROM:** Jim Pellegrini, Deputy Legislative Auditor, Performance Audits  
**CC:** Keith Kelly, Commissioner, Department of Labor & Industry  
Jim Brown, Administrator, Business Standards Division, Department of Labor & Industry  
**DATE:** January 20, 2006  
**RE:** Follow-up Performance Audit-06SP-021: Professional and Occupational Licensing, Department of Labor and Industry (orig. 04P02/04P08)

## **Introduction**

In June 2004, we presented our performance audit on Professional and Occupational Licensing to the Legislative Audit Committee. The audit report made nine recommendations to the Department of Labor and Industry. During 2005, we requested and received information from the department on their progress in implementing the recommendations. In addition to summarizing the results of our follow-up work, this memo will present background information on program activities.

## **Overview**

Audit recommendations focused on increasing consistency in department administrative procedures and pursuing increased standardization in licensing board policies and procedures. The Department of Labor & Industry in consultation with licensing boards has fully implemented five recommendations relating to department administration, licensing fees, license application review, compliance inspections and complaint investigations. The department is currently implementing, but has not yet completed work for three recommendations relating to board finances, license renewal procedures, and professional assistance programs. The department has not implemented one recommendation relating to board disciplinary procedures.

## **Background**

Montana regulates the practice of various professions and occupations through licensing boards. The primary purpose of professional licensing is to ensure public health, safety and welfare is protected from unskilled, incompetent or unethical practitioners. There are currently 33 professional licensing boards administratively attached to the Department of Labor and Industry. Boards and programs administered by the department have approximately 92,000 licensed individuals under their jurisdiction.

During the 2003 session, the Montana Legislature passed House Joint Resolution (HJR) 20, requesting the Legislative Audit Committee prioritize a series of limited scope performance audits of the licensing boards administratively attached to the Department of Labor and Industry.

HJR 20 requested we address five aspects of professional licensing; licensing fees and board finances, board disciplinary activities, department administrative efficiency, board composition, and the education and professional experience requirements of licensure.

### **Follow-up Audit Findings**

The performance audit report included nine recommendations addressed to the department or jointly to the department and licensing boards. Recommendations focused on improving the efficiency and effectiveness of professional licensing through increased standardization of policies and procedures. The following summarizes information relating to follow-up audit work and the implementation status of recommendations.

### **Recommendation #1**

**We recommend the department continue to pursue improvements in administrative efficiency and effectiveness by:**

- A) Updating and revising administrative policies and procedures.**
- B) Developing compilation and reporting standards for management information.**
- C) Establishing performance measurement procedures to assess progress in implementing management reorganization plans.**

### **Implementation Status – Implemented**

The department has fully implemented this recommendation. The department has completed reassignment of staff within both licensing bureaus and has revised policies and procedures to reflect changes in board administration. Board members have received updated information and training relating to the department's administrative role. The department has also incorporated standardized performance measurements in the biennial report to the Governor.

The department is continuing to develop performance indicators to reflect process and efficiency improvements (for example, timeframes for common administrative tasks, such as issuing a new license.) These measurements will help the department track progress as management reorganization efforts are fully implemented. The department has also committed to sharing performance data with board members and other interested parties.

### **Recommendation #2**

**We recommend the department:**

- A) Seek statutory authority to set uniform administrative service fees.**
- B) Develop procedures to ensure administrative service fees are commensurate with the cost of services.**

### **Implementation Status - Implemented**

This recommendation was implemented through passage of House Bill (HB) 182 by the 2005 Legislature. HB 182 grants the department authority to establish uniform administrative service fees. The department is currently noticing administrative rules and developing procedures to govern the establishment of administrative service fees. Introduction of a single fee schedule will eliminate unnecessary variations in fee amounts charged to licensees of different boards.

### **Recommendation #3**

**We recommend the department work with licensing boards to improve responses to excess cash balances by:**

- A) Seeking statutory authority for temporary fee adjustments.**
- B) Developing model administrative rules defining procedures for temporary fee adjustments.**

### **Implementation Status – Being Implemented**

This recommendation was also implemented through passage of HB 182. The department now has authority to make temporary adjustments in licensing fees to ensure excess cash balances are addressed in a timely manner. These changes allow for quicker rebates to licensees in cases where an excessive cash balance is being maintained by a licensing board. Full implementation depends on new administrative rules being adopted by boards.

### **Recommendation #4**

**We recommend the department work with licensing boards to delegate responsibility for review and approval of routine applications to department staff.**

### **Implementation Status – Implemented**

HB 182 also provided for review and approval of routine applications by department staff. By ensuring routine applications are not subject to additional scrutiny by licensing boards, this recommendation allows for quicker turnaround of license applications. Department staff have encountered some problems assessing applicants' educational and experience requirements during review of applications for some boards. However, boards retain review authority for all non-routine applications and are involved in ongoing review and quality control procedures to ensure the department's review process is working well. The department can ensure changes in license review/approval procedures are successful by continuing to involve board members in quality control reviews and other external scrutiny of the licensure process.

### **Recommendation #5**

**We recommend the department continue to standardize license renewal procedures by:**

- A) Evaluating renewals distribution and, where necessary, altering renewal dates for certain boards.**
- B) Pursuing revisions to statute to eliminate documentary verification of continuing education hours in favor of random audits to establish compliance.**
- C) Phasing-out continual renewal cycles in favor of fixed-date renewals.**

### **Implementation Status – Partially Implemented**

Parts B and C of this recommendation were implemented through passage of HB 182, which granted the department authority to eliminate documentary verification of continuing education hours and begin phasing-out continual renewal cycles. Licensing boards are in the process of implementing audit procedures to verify licensee compliance with continuing education requirements. Using audit procedures allows more licensees the opportunity to access online renewal services. Licensing programs currently using continual renewal cycles will complete the process of moving to annual renewals by the end of 2006.

Part A of this recommendation addressed changes in annual renewal dates for certain boards to reduce workload fluctuations. As indicated in its response to the audit report, the department has elected to continue monitoring online renewal rates before taking action to implement this part of the recommendation. Depending on adoption of online renewals, the current distribution of renewals workloads could change as the process is automated. For approximately 50 license categories renewing online in 2005, department records show an average online renewal rate of around 20 percent. Further growth in adoption rates for online renewal could have the effect of changing department workload distribution.

#### **Recommendation # 6**

**We recommend the department, in consultation with boards, revise procedures or, where appropriate, develop model administrative rules to increase consistency in the disciplinary process by:**

- A) Classifying disciplinary actions involving minor infractions of administrative rules;**
- B) Establishing an alternative path for disciplinary actions involving minor infractions; and**
- C) Expanding the range of corrective action options available to boards in cases of administrative noncompliance.**

#### **Implementation Status – Not Implemented**

In its written response to the audit report, the department indicated implementation of this recommendation would depend on changes in statute and that legislation would be proposed for the 2007 legislative session. The department is continuing to study potential options for promoting greater consistency in disciplinary procedures in consultation with licensing boards. Department staff have indicated there are some concerns over the effects of any changes for boards reporting disciplinary information to national licensee databanks. It is unclear whether establishing a separate disciplinary path for minor infractions would be compatible with reporting requirements for national databanks. The department has undertaken to continue studying these and other issues and may propose changes to statute for the 2007 legislative session.

#### **Recommendation # 7**

**We recommend the department develop model administrative rules to provide guidance for professional assistance programs.**

#### **Implementation Status – Partially Implemented**

Professional assistance programs provide confidential counseling and other treatment services for licensees in medical professions experiencing problems with drug or alcohol dependency or, in some cases, psychological disorders. The public safety risk associated with professional assistance programs should be considered substantial; licensed professionals with addictive or behavioral disorders can enter these programs, continue practicing and maintain contact with patients and other members of the public. This recommendation addressed the need for greater consistency between the four professional assistance programs currently operated by the Boards of Medical Examiners, Nursing, Dentistry and Pharmacy. Three of these programs operate without any guidance in administrative rules. The department's written response to the audit report indicated concurrence with this recommendation and established a schedule for the development of model administrative rules, which would provide a consistent and standardized basis for the operation of professional assistance programs. However, following consultations, the department and the affected boards have opted to develop rules specific to individual programs. These rules will reflect some common standards and should provide some improvement in consistency between different program operations.

#### **Recommendation # 8**

**We recommend the department develop standardized procedures for compliance inspections. These procedures should include the following elements:**

- A) Inspection/inspector supervision.**
- B) Standardized format for compliance inspection reports.**
- C) Uniform procedures governing classification and reporting of compliance violations.**

**Implementation Status – Implemented**

The department has made the necessary changes in compliance inspection procedures to implement all the parts of this recommendation.

**Recommendation # 9**

**We recommend the department develop procedures to strengthen supervision of complaint investigations.**

**Implementation Status – Implemented**

The department has made changes in complaint investigation procedures to implement this recommendation. These changes have included random reviews of investigation documentation and verification of investigation procedures with licensees.

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